

*California Society of  
Municipal Finance Officers*

**Certificate of Award**

***Excellence in Operational Budgeting 2002-2003***

**Presented to**

***City of Milpitas***

*This certificate recognizes the achievement of Excellence in Operational Budgeting and reflects an outstanding budget document and the underlying budgeting process through which the budget is implemented.*

***February 24, 2003***



*Joan Michaels*  
Chair, Budgeting & Financial Management

*[Signature]*  
Vice-Chair, Budgeting & Financial Management

***Dedicated to Excellence in Municipal Financial Management***

RESOLUTION NO. 7315

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF MILPITAS ADOPTING THE APPROPRIATIONS  
LIMIT FOR THE CITY OF MILPITAS FOR FISCAL YEAR 2003-2004

WHEREAS, Article XIII B, section 1 of the Constitution of the State of California requires that total annual appropriations subject to limitation of the City of Milpitas shall not exceed the appropriations limit of the City for the prior year adjusted for changes in the cost of living and population except as otherwise provided; and

WHEREAS, this article became effective July 1, 1980, as amended, which requires the City to establish its appropriations limit by resolution each year at a regularly scheduled meeting or a noticed special meeting, commencing after the beginning of each fiscal year; and

WHEREAS, the appropriations base for 1978-79 had been determined and adjusted by the changes in population, cost of living, and transfers of financial responsibility, establishing an appropriations limit for fiscal year 2003-2004 of \$48,662,062.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milpitas hereby adopts the appropriations limit for fiscal year 2003-2004 that amount as set forth herein.

PASSED AND ADOPTED by the City Council of the City of Milpitas this 3<sup>rd</sup> day of June, 2003, by the following vote:

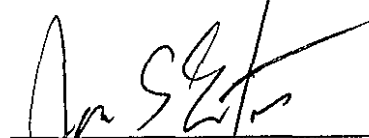
AYES:	(4)	Mayor Esteves and Councilmembers Dixon, Gomez, and Polanski
NOES:	(0)	None
ABSENT:	(1)	Councilmember Livengood
ABSTAIN:	(0)	None

ATTEST:



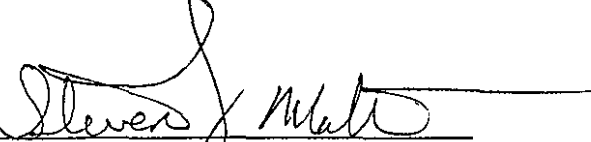
Gail Blalock, City Clerk

APPROVED:



Jose S. Esteves, Mayor

APPROVED AS TO FORM:



Steven T. Mattas, City Attorney

**RESOLUTION NO. 7316/RA205**

**A JOINT RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF MILPITAS AND OF THE  
THE MILPITAS REDEVELOPMENT AGENCY  
APPROVING THE FINAL BUDGET  
FOR THE CITY OF MILPITAS FOR THE FISCAL YEAR 2003-2004**

WHEREAS, the City Manager submitted a 2003-2004 Proposed Budget and Financial Plan; and

WHEREAS, public hearings were held on the proposed Plan where all interested persons were heard; and

WHEREAS, the City Council and the Redevelopment Agency reviewed and modified the City Manager's proposed 2003-2004 Proposed Budget and Financial Plan; and

WHEREAS, on May 13, 2003, the City Council and the Redevelopment Agency approved the 2003-2004 Financial Plan, as amended, and the 2003-2004 Capital Budget.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The annual budget for the City of Milpitas for fiscal 2003-2004 is hereby reaffirmed and adopted totaling \$99,232,847 for all appropriated funds.

SECTION 2. Appropriations and estimated fund balances are hereby made for the various purposes designated in the 2003-2004 Final Budget.

SECTION 3. The budgets for all departments for the period July 1, 2003 through June 30, 2004, inclusively contained in the 2003-2004 Final Budget Resolution, are approved as the operating budget for those departments for fiscal 2003-2004.

SECTION 4. Any unused non-salary and benefits related appropriations, subject to the approval of the City Manager, at the end of fiscal 2003-2004 may be reappropriated for continued use in fiscal 2004-05.

SECTION 5. No office, department or agency shall expend any amount or incur any liability or enter into any contract which by its terms involves expenditures of money for any purpose in excess of the amounts appropriated for the classification of expenditures pursuant to this resolution. Budgetary control shall be at the department level.

SECTION 6. The City Manager may authorize, when in his or her judgment such action is consistent with the purposes and intent of the Budget as adopted, budget revisions subject to the following conditions:

1. Prior Council/Agency Approval Not Required. Prior approval of the City Council and/or Redevelopment Agency is not required under the following circumstances:
  - a. When revisions which involve transfers from appropriated contingency reserves or appropriations from unallocated reserves are less than the aggregate amount of 1% of General Fund appropriations, or \$601,011 during fiscal 2003-2004, provided that the Council/Agency is notified in writing of the revision, giving the reason, the amount of the revision and the year-to-date total amount of revisions.

- b. When revisions involve transfers from one unencumbered line-item account balance to another, provided that the Council/Agency is notified in writing of any transfer in excess of \$10,000.
  - c. For Police goods and services to be purchased from Asset Seizure funds, the City Manager or his designee, has the authority to purchase such goods or services if the expenditures of such goods and services do not exceed the amount designated from Asset Seizure funds as approved by the City Council/Redevelopment Agency during the fiscal 2003-2004 Budget hearing.
2. Prior Council/Agency Approval Required. Prior approval of the City Council and/or Redevelopment Agency is required if any of the following are involved:
- a. Changes providing for increases in permanent personnel or changes in classification for personnel from the number of classes or personnel approved in the adopted Budget.
  - b. Contract change orders in excess of \$5,000.
  - c. Changes when in his or her judgment such action would be inconsistent with the purposes and intent of the Budget as adopted.
  - d. Transfers from contingent reserves or appropriations from unallocated reserves which would cause the aggregate amount of 1% of General Fund appropriations, or \$601,011 during fiscal 2003-2004, to be exceeded, except that proceeds of tax revenue in excess of appropriations limit shall be automatically appropriated to the contingency reserve at June 30, 2004.

PASSED AND ADOPTED by the City Council/Agency of the City of Milpitas this 3<sup>rd</sup> day of June, 2003, by the following vote:

AYES: (3) Mayor/Chairperson Esteves and Councilmembers/Agency members Dixon, and Polanski

NOES: (1) Councilmember Gomez

ABSENT: (1) Councilmember/Agency member Livengood

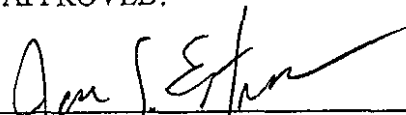
ABSTAIN: (0) None

ATTEST:



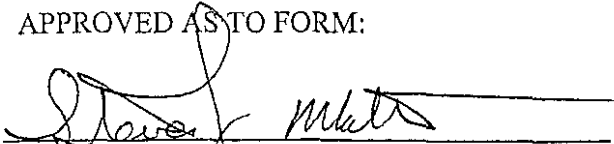
Gail Blalock, City Clerk/Secretary

APPROVED:



Jose S. Esteves, Mayor/Chairperson

APPROVED AS TO FORM:



Steven T. Mattas, City Attorney/Agency Counsel

**RESOLUTION NO. 7317/RA206**

**A JOINT RESOLUTION OF THE MILPITAS REDEVELOPMENT AGENCY  
AND THE CITY COUNCIL OF THE CITY OF MILPITAS  
MAKING FINDINGS FOLLOWING A PUBLIC HEARING THEREON**

WHEREAS, the Milpitas Redevelopment Agency and the City Council of the City of Milpitas seek to acquire, construct, and improve certain public facilities of benefit to the Redevelopment Area and to the community; and

WHEREAS, the 2003-2008 Capital Improvement Program enumerates the capital projects that the Agency and the City of Milpitas wishes to undertake, setting forth the desired timing and financing resources for the projects that is available to undertake said projects; and

WHEREAS, notice was given of a joint public hearing before the Milpitas Redevelopment Agency and the City Council of the City of Milpitas at 6:30 p.m. on May 13, 2003, at the Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, California; and

WHEREAS, prior to said hearing the 2003-08 Capital Improvement Program was prepared and made available for public inspection and copying, and the 2003-04 Capital Budget of the 2003-08 Capital Improvement Program is hereby referred to and made a part hereof as though fully set forth herein; and

WHEREAS, a joint hearing was held at said time and place. Opportunity was given to any member of the public to comment, and to inquire. The hearing was closed, and following the close thereof the 2003-08 Capital Budget was approved, as amended; and

WHEREAS, evidence was offered by the Agency/City staff in support of the findings hereafter made.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. Each of the statements contained in the above recitals are true and correct, and incorporated herein by reference and are approved and confirmed.

SECTION 2. The evidence offered by the Agency/City staff and contained in the 2003-08 Capital Improvement Program set forth the facts supporting the determinations required to be made pursuant to Section 33445 of the Health and Safety Code and set forth the redevelopment purpose for which redevelopment funds are being used to pay for the acquisition, construction, and improvements of publicly owned facilities.

SECTION 3. The land and facilities to be acquired, constructed, and improvements that are to be made thereon are within the Project Area of the Agency or adjacent to the Project Area.

SECTION 4. The acquisition of land, facilities, buildings, structures, and other improvements to be acquired or constructed as set forth in the 2003-08 Capital Improvement Program are of benefit to the Project Area and will assist in eliminating blighting conditions within the Project Area.

SECTION 5. No other reasonable means of financing such buildings, land, facilities, structures or other improvements are available to the community.

PASSED AND ADOPTED by the City Council/Agency of the City of Milpitas this 3<sup>rd</sup> day of June, 2003,  
by the following vote:

AYES: (4) Mayor/Chairperson Esteves and Councilmembers/Agency Members Dixon,  
Gomez, and Polanski

NOES: (0) None

ABSENT: (1) Councilmember/Agency Member Livengood

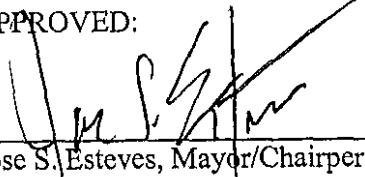
ABSTAIN: (0) None

ATTEST:



Gail Blalock, City Clerk/Secretary

APPROVED:



Jose S. Esteves, Mayor/Chairperson

APPROVED AS TO FORM:



Steven T. Matas, City Attorney/Agency Counsel

**SECOND AMENDED AND RESTATED  
PUBLIC WORKS AGREEMENT  
BETWEEN THE CITY OF MILPITAS AND THE  
MILPITAS REDEVELOPMENT AGENCY  
FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS**

THIS SECOND AMENDED AND RESTATED PUBLIC WORKS AGREEMENT (the "Agreement") is entered into this 3<sup>rd</sup> day of June, 2003, by and between the MILPITAS REDEVELOPMENT AGENCY, a public body, corporate and politic (the "Agency"), and the CITY OF MILPITAS, a municipal corporation ("City").

**RECITALS**

- A. By Ordinance No. 192, adopted on September 21, 1976, the City Council of the City of Milpitas adopted and approved a certain Redevelopment Plan (the "Redevelopment Plan") for the Milpitas Redevelopment Project No. 1, which the City has subsequently amended a total of seven times (as amended, the "Project").
- B. Pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 et seq.) and its general city powers, the City desires to assist the Agency in the implementation of the Project.
- C. On June 4, 2002, the City and the Agency entered into an Agreement for the construction of Public Improvements and on January 21, 2003, the City and the Agency entered into an Amended and Restated Public Works Agreement for the construction of Public Improvements (the "Prior Agreements"). The City and Agency desire that this Agreement replace and supercede the Prior Agreements for all purposes.
- D. In furtherance of the Project, the City and Agency desire to enter into an agreement under which the City is required to cause the acquisition and construction of certain public improvements and the performance of certain programs and activities as identified in the Redevelopment Agency Financing pages of the Five Year Capital Improvement Program, attached hereto as Attachment No. 1 (the "Public Improvements") to serve and benefit the Project.
- E. In return for City's obligation to acquire, construct and perform such Public Improvements, Agency shall pay to City the full cost of the Public Improvements.
- F. The Agency and City have determined that the Public Improvements are of benefit to the Project, and that no other reasonable means of financing such Public Improvements are available to the community.

Agreements

NOW, THEREFORE, THE CITY AND THE AGENCY HEREBY AGREE as follows:

Section 1. Agreement Replaces and Supercedes Prior Agreements.

This Agreement shall replace and supercede the "Agreement Between the City of Milpitas and the Milpitas Redevelopment Agency for the Construction of Public Improvements," dated June 4, 2002 and the "Amended and Restated Public Works Agreement Between the City of Milpitas and the Milpitas Redevelopment Agency for the Construction of Public Improvements", dated January 21, 2003, for all purposes

Section 2. Purpose of this Agreement.

The purpose of this Agreement is to provide for the acquisition and construction of certain public improvement projects and the performance of certain programs and activities to serve and benefit the Project and to implement and carry out the Redevelopment Plan for the Project.

Section 3. Terms of Performance by the City.

The City agrees to cause the acquisition and construction of the public improvement and the performance of the programs and activities referred to in Section 5 to serve and benefit the Project, subject to (1) the request and direction of the Agency as to the location, timing, and other specifications and requirements therefore, and (2) compliance with the Redevelopment Plan and all applicable laws with respect to such Public Improvements.

Section 4. Payments by the Agency.

The Agency agrees to pay the City the cost of the Public Improvements as set forth in the Capital Improvement Program approved annually by the City Council and Redevelopment Agency (the current version is attached hereto as Attachment No. 1 and incorporated herein by reference), subject to (1) any requirements of Agency indebtedness incurred with respect to the Project and (2) compliance with the Redevelopment Plan and all applicable laws with respect to the Public Improvements.

Section 5. Public Improvements.

The Public Improvements are those identified in the Redevelopment Agency Financing pages of the Five Year Capital Improvement Program as approved annually by the City Council and Redevelopment Agency (the current version is attached hereto as Attachment No. 1 and incorporated herein by reference). The Agency, at its sole discretion, shall request and direct the City as to the location, timing and other specifications and requirements for the construction and installation of such Public Improvements, subject to the terms of this Agreement.

Section 6. Authorization of Payments to the City.

Upon demand by the City, the Executive Director of the Agency is directed to pay and transfer to the City, in furtherance of the purposes of this Agreement, the full cost of the Public Improvements as set forth in Attachment No. 1, or any portion thereof as demanded by the City, and the Treasurer of the Agency shall carry out any such directions of the Executive Director.

Section 7. Funds Received by the City.

All funds paid by the Agency to the City under this Agreement shall, upon receipt by the City, be held by the City in consideration for the obligations and undertakings of the City under this Agreement and shall not be used by the City for any purpose inconsistent with the Community Redevelopment Law.

Section 8. Indebtedness of the Agency.

This Agreement constitutes an indebtedness of the Agency incurred in carrying out the Project, and a pledging of tax allocations from the Project to repay such indebtedness, under the provisions of Section 16 of Article XVI of the California Constitution and Sections 33670-33679 of the Health and Safety Code; provided, however, that such pledge of tax allocations shall always be subordinate and subject to the right of the Agency to



pledge or commit tax allocations from the Project to repay bonds or other indebtedness incurred by the Agency in carrying out the Project.

Section 9. Liability and Indemnification.

In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Section 895 of said Code, the parties hereto, as between themselves, pursuant to the authorization contained in Section 895.4 and 895.6 of said Code, will each assume the full liability imposed upon it, or any of its officers, agents or employees by law for injury caused by negligent or wrongful act or omission occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above stated purpose, each party indemnifies and holds harmless the other party for any loss, costs, or expense that may be imposed upon such other party by virtue of said Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part hereof as if fully set forth herein.

Section 10. Termination of this Agreement.

This Agreement and the obligations of the City and the Agency hereunder shall terminate only upon (1) the mutual agreement of the City or Agency, or (2) the completion of the Public Improvements under this Agreement.

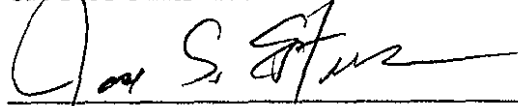
IN WITNESS WHEREOF, the Agency and the City have executed this Agreement as of the date first above written.

ATTEST



City Clerk/Secretary

CITY OF MILPITAS

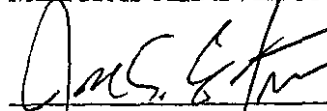


Mayor



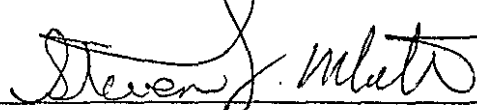
City Manager/Executive Director

MILPITAS REDEVELOPMENT AGENCY



Chairperson

APPROVED AS TO FORM:



City Attorney/Agency Counsel